

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.737 OF 2018

ORDER:

This civil revision petition is filed by the petitioner-Judgment Debtor No.3, under Section 115 of CPC, assailing the docket order dated 15.12.2017 passed in E.P.No.75 of 2016 in ABR/CF/No.238 of 2012 on the file of the Court of the Senior Civil Judge at Adoni, Kurnool District.

2. The first respondent-Decree Holder referred the matter to the Arbitrator. The Arbitrator passed the Award on 29.3.2014 vide ABR/CF/No.238 of 2012. The first respondent filed E.P.No.75 of 2016 seeking arrest of the petitioner-J.Dr No.3 and others. The executing Court issued the warrant against the petitioner. Hence, the revision.

3. Heard the learned counsel for both the parties.

4. The predominant contention of learned counsel for the petitioner is that no notice was served on the petitioner as contemplated under Order XXI Rule 22 of CPC; therefore, the impugned order is liable to be set aside.

5. A perusal of the record reveals that the learned Arbitrator passed the award on 29.3.2014. E.P.No.75 of 2016 was filed on 01.12.2016. Admittedly, the E.P. was filed two years after passing of the Award. The record *prima facie* reveals that the first respondent filed the E.P., without following procedure as contemplated under Order XXI Rule 22 of CPC.

6. The executing Court straightaway took up the matter and issued the warrant against the petitioner. The executing Court ought not to have entertained E.P.No.75 of 2016 without following the due procedure. Viewed from any angle, the order passed by the executing Court is not sustainable. Hence, the impugned order is liable to be set aside.

7. In the result, the civil revision petition is allowed, setting aside the docket order dated 15.12.2017 passed in E.P.No.75 of 2016 in ABR/CF/No.238 of 2012 on the file of the Court of the Senior Civil Judge at Adoni, Kurnool District. The executing Court is hereby directed to verify whether the notice under Order XXI Rule 22 of CPC has been served on the petitioner or not and proceed accordingly. Miscellaneous petitions if any pending in this revision petition shall stand closed.

Date: 13.7.2018
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T.SUNIL CHOWDARY, J.